

In the Drawings:

Please replace Figures 1 and 2 (all the figures) of the present application with the replacement Figures 1 and 2 enclosed herewith.

REMARKS

By the present amendment, paragraphs the specification, claims 1 and 3-20, and Figures 1 and 2 have been amended. Claim 21 has been added. Claim 2 has been canceled. No new matter has been added.

Claims 1 and 3-21 are now pending in the application. Reconsideration and allowance of all the claims is respectfully requested in view of the foregoing amendments and the following remarks.

With regard to the objection to the Drawings

The Examiner has objected to the drawings because reference characters “2” and “3” on Figures 1 and 2 have both been used to designate “substratum”.

In response to the Examiner’s remarks, the Applicant has amended Figures 1 and 2 to better distinguish the “substructure”, identified by the reference character “2”, from the “substratum”, identified by the reference character “3”.

No new matter has been added, as these amendments consist only in modifying the reference to the “substructure” in accordance with the specification, as originally filed.

With regard to the objection to the Specification

The Examiner has objected to the specification because the proper headings were missing.

In response to the Examiner’s remark, the Applicant has amended the specification to introduce headings for each part of the specification.

With regard to the objection to the Claims

The Examiner has objected to claim 1 for being unclear.

In response to the Examiner’s objection, claim 1 has been amended and now recites “a superstructure” as suggested by the Examiner.

The Examiner has also objected to claims 4-20 as being in improper form because of multiple dependent claims that do not refer to other claims in alternative only and because of dependent claims depending from other multiple dependent claims.

In response to the Examiner's objection, claims 4-20 have been amended. As a result of this amendment claim 15 is now in independent form. Also, claims 4-14 now refer by number to the claim from which they depend. Multiple dependencies of claims 4-14 and 17-20 have also been removed. The Applicant respectfully submits that claims 4-20 are now in proper form to be treated on the merits.

With regard to the claim rejections under 35 USC §112

The Examiner has rejected claims 1-3 under 35 USC §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

In response to the Examiner's rejection, claims 1 and 3 have been amended. Claim 1 has been amended to provide proper antecedent to the feature "the undersize". Also, the wording of claims 1 and 3, resulting from the direct translation from German has been reworked in proper idiomatic English. Claims 1 and 3 have also been amended for purpose of consistency and to remove references to the Figures. The Applicant believes the rejection under 35 USC §112 of claims 1 and 3 has been addressed and overcome by the present amendment.

In addition, the Applicant has canceled claim 2, rendering the Examiner's rejection moot with respect thereto.

With regard to the claim rejections under 35 USC §102(b)

The Examiner has rejected claims 1-3 under 35 USC §102(b) as being anticipated by Trawny, German Patent No. 196 05 990. The Applicant believes this rejection has been addressed and overcome by the present amendment.

The Applicant has canceled claim 2 rendering the Examiner's rejection moot with respect thereto.

In response to the Examiner's rejection, the Applicant has amended claim 1 to recite the features of claim 2 as filed. Claim 1, as amended is believed to be patentable in view of Trawny. In particular, the Applicant submits that Trawny does not teach the following feature of claim 1 as amended:

[T]he layers of the superstructure and the substructure being connected together by bonding

Referring to column 2, lines 60-98 of Trawny, Trawny teaches a binding material to produce a superstructure by mixing and polymerisation. However, Trawny makes no mention of a binding material used in relation to a substructure.

In addition, referring to claim 15 of Trawny:

[...] dass der Bodenbelag auf einer Asphalttragschicht
(8) aufliegt

The Applicant reads and understands German, and understands the above passage in Trawny to mean:

[T]he ground covering lies on a bearing asphalt layer
(8)

Therefore, the ground covering of Trawny rests on the substructure. There is no mention of a ground covering connected by bonding to a substructure. As such, Trawny does not teach layers of a superstructure and a substructure connected by bonding.

Therefore, at least one feature of claim 1 as amended is not taught by Trawny. As such, the Examiner is requested to withdraw her rejection of claim 1 and claim 3 depending therefrom.

Miscellaneous Amendment

New claim 21 has been added. Claim 21 recites a feature of claim 20 as originally filed.

Claims 4-20 have been amended to rework their wordings, resulting from the direct translation from German, in proper idiomatic English. Claims 4-20 have also been amended for purpose of consistency and to remove references to the Figures. It is believed that the scope of each of claims 4-20 is the same as for claims 4-20 as originally filed (respectively, with the exception of the multiple dependencies). Therefore, no surrender of claim scope (by equivalents or otherwise) is intended or should be inferred from these amendments.

In view of the above remarks, the Applicant respectfully submits that all of the currently pending claims are allowable and that the entire application is in condition for allowance.

Should the Examiner believe that anything further is desirable to place the application in a better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

At the time of filing of the present response, the Office was authorized to charge the fees believed to be necessary to a credit card. In case of any under- or over-payment or should any additional fee be otherwise necessary, the Office is hereby authorized to credit or debit (as the case may be) Deposit Account number 502977.

Respectfully submitted,

/Jonathan D. Cutler, 40,576/

Jonathan D. Cutler, Reg. No. 40,576
OSLER, HOSKIN & HARCOURT LLP
Attorneys for the Applicant

OSLER, HOSKIN & HARCOURT LLP
1000 de la Gauchetière St. West
Suite 2100
Montréal, Québec H3B 4W5
Canada

Tel. (514) 904-8100
Fax. (514) 904-8101